

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-015 What terms do I need to know to understand this chapter? For the purposes of this chapter, the following terms and definitions are important:

"Administrative law judge" is any person appointed by the chief administrative law judge (as defined in RCW 34.12.020(2)) to preside at a notice of infraction appeal hearing convened under ((RCW 18.27.100, 18.27.114 or 18.27.200)) chapter 18.27 RCW and this chapter.

"Appeal hearing" is any proceeding in which an administrative law judge is empowered to determine legal rights, duties or privileges of specific parties on behalf of the director.

"Applicant" is any person, firm, corporation or other entity applying to become a registered contractor according to chapter 18.27 RCW and this chapter. Applicant includes all principal officer(s), members, partners of a partnership, firm, corporation, or other entity named on the application.

"Citation" means the same as "infraction."

"Compliance inspector" refers to the departmental staff responsible for investigating potential violations of chapter 18.27 RCW and this chapter.

"Contractor compliance chief" refers to the person designated by the director to address all policy and technical issues related to chapter 18.27 RCW and ((chapter 296-200A WAC)) this chapter.

"Department" refers to the department of labor and industries.

"Director" refers to the director of the department of labor and industries or the director's designee acting in the place of the director.

"Final judgment" means any money that is owed to a claimant as a result of court action against a contractor's bond or assigned savings account with the department or any money that is owed the department as a result of a contractor's unsuccessful appeal of an infraction. Final judgment also includes any penalties assessed against the contractor and owed the department as a result of an unappealed infraction or any outstanding fees due under this chapter.

"Infraction" means a violation of ((RCW 18.27.100, 18.27.114 or 18.27.200)) chapter 18.27 RCW and this chapter as cited by the chief contractor compliance inspector or the

department's construction compliance inspectors.

"Renewal" or "renewed" means the renewal of a contractor's registration before it expires.

"Reinstatement" or "reinstated" means the reinstatement of a contractor's registration after the registration has expired, been suspended, or been revoked.

"Reregistration" or "reregister" means an update to a contractor's registration because of business structure change.

"Secured contractor" is a contractor who has complied with RCW 18.27.040 by assigning((~~r~~)) to the department((~~r~~)) a savings account held in a Washington state bank, ((~~depositing cash with the department~~)) or ((~~obtaining~~)) by filing with the department a surety bond.

"Security" is a savings account held in a Washington state bank and assigned to the department((~~r~~, ~~cash deposited with the department or~~)) in lieu of a surety bond.

"Unregistered contractor" means a person, firm, ((~~or~~)) corporation or other entity working as a contractor without being registered in compliance with chapter 18.27 RCW and ((~~chapter 296-200A WAC~~)) this chapter.

"Unsatisfied final judgment" means a judgment that has not been satisfied either through payment, court approved settlement, discharge in bankruptcy, or assignment under RCW 19.72.070.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-025 How does a contractor register ((~~or~~)), renew, reregister or reinstate its registration? (1) A contractor may register/renew/reregister/reinstate if it:

(a) Completes an application for contractor registration and submits it to the department as required by RCW 18.27.030;

(b) Satisfies one of the following:

(i) Obtains a continuous surety bond in the total amount specified in WAC 296-200A-030 and submits the original bond with bond number to the department (see RCW 18.27.040); or

(ii) Assigns, to the department, a security deposit in the form of a savings account held in a Washington state((~~r~~ or

((~~iii~~)) Deposits cash with the department)) bank as specified in WAC 296-200A-030;

(c) Obtains public liability and property damage insurance and submits the original insurance certificate with policy number to the department (see RCW 18.27.050); and

(d) Pays the issuance/renewal/reregistration/reinstatement

fee shown in WAC 296-200A-900.

(2) A contractor may renew its registration if it submits, to the department, a completed contractor registration renewal notice and the material required in subsection (1)(b) and (c) of this section and pays the renewal fee shown in WAC 296-200A-900. ~~((At least))~~ No more than forty-five days before the contractor's registration expires, the department must send a renewal notice to the contractor's last recorded address. It is the responsibility of the contractor to notify the department **in writing** of a change in address.

(3) The contractor must:

(a) Submit all required ~~((materials))~~ documents to the department in ~~((one package.))~~ a manner approved by the department as set forth in subsections (3)(b), (c), (d), and (4) of this section;

(b) Include, on each ~~((material, its))~~ document, the name exactly as it appears on the contractor registration application or renewal notice~~((.))~~;

(c) Include, if renewing a registration, the contractor's registration number on each of the ~~((materials))~~ documents; and

(d) Include a copy of the certificate or document (when required) by the secretary of state for the contractor to do business in the state of Washington.

(4) The department will not register ~~((or))~~, renew, or reinstate the registration of a contractor if:

(a) Any of the required ~~((materials))~~ documents are missing;

(b) The ~~((materials))~~ documents do not ~~((properly))~~ have the proper name of the contractor;

(c) ~~((The materials,))~~ In the case of a renewal, the documents do not include the registration number; or

(d) The applicant ~~((has been previously registered as a contractor and))~~ or person pursuant to RCW 18.27.030 has an unsatisfied final judgment based on work which is subject to chapter 18.27 RCW and this chapter.

(5) The contractor may request, in a letter filed with the application or renewal materials, that the registration period end on a particular day. However, the registration period cannot exceed ~~((one))~~ two years.

NEW SECTION

WAC 296-200A-030 How much are the surety bond or savings account amounts?

(1) The continuous surety bond or savings account amounts for applicants of contractors with five or fewer final judgments involving a residential single-family dwelling on two or more different structures in the previous five years are as follows:

(a) Twelve thousand dollars per calendar year for general contractors.

(b) Six thousand dollars per calendar year for specialty contractors.

(2) The surety bond or savings account amounts for applicants of contractors with six or more final judgments involving a residential single-family dwelling on two or more different structures in the previous five years will be based upon (a) and (b) of this subsection. (a) and (b) of this subsection do not apply to final judgments rendered before July 22, 2001.

(a) General contractors.

Number of Final Judgments	Bond or Savings Account Amount per Calendar Year
6	\$18,000.00
7	\$24,000.00
8	\$30,000.00
9 or more	\$36,000.00

(b) Specialty contractors.

Number of Final Judgments	Bond or Savings Account Amount per Calendar Year
6	\$ 8,000.00
7	\$12,000.00
8	\$16,000.00
9 or more	\$18,000.00

(3) At the time of reregistration, renewal or reinstatement the department shall only consider final judgments from the previous five years which will be used to determine the bond or savings account amount according to subsection (2)(a) and (b) of this section. Final judgments rendered before July 22, 2001,

will not be considered toward the required bond or savings account amount.

(4) For purposes of this section, final judgment does not include infractions.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-035 How long is a contractor's registration period? ~~((1))~~ A registration period ~~((cannot exceed one))~~ is for two years per RCW 18.27.060(1).

~~((2) If a contractor's insurance policy will expire in less than one year after the day the registration begins, the registration period ends on the day the insurance expires.))~~

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-040 ~~((How does a contractor's registration become suspended?))~~ What can cause the suspension of a contractor's registration? (1) A contractor's registration will be suspended if ~~((it does not comply with WAC 296-200A-025, specifically, if))~~ the following impairments, cancellations, noncompliance, or errors occur:

(a) A surety bond or other security ~~((is))~~ has an unsatisfied final judgment against it or becomes otherwise impaired.

(b) A surety bond is canceled.

(c) An insurance policy is expired, canceled, revoked or the insurer is withdrawn from the insurance policy.

(d) The contractor has an unsatisfied final judgment against it under chapter 18.27 RCW and this chapter.

(e) The department has notice that the contractor is a sole proprietor or a principal or officer of a registered contractor that has an unsatisfied final judgment against it for work within the scope of chapter 18.27 RCW and this chapter.

(f) The department is notified that the contractor has been certified by the department of social and health services as a person who is not in compliance with a support order as provided in RCW 74.20A.320.

(g) The department finds that the contractor has provided false information or has otherwise been registered in error.

(h) The contractor fails to comply with a penalty payment plan agreement.

(i) The contractor has been certified by a leading agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service conditional scholarship.

(j) The contractor does not maintain a valid unified business identifier number, if required by the department of revenue.

(2) The contractor's registration will be automatically suspended on the effective date of the impairment or cancellation. The department must mail a notice of the suspension to the contractor's address on the certificate of registration by certified mail **and** first class mail within ~~((forty-eight hours))~~ two days after suspension.

(3) A contractor must not advertise, offer to do work, submit a bid, or perform any work as a contractor while its registration is suspended. To continue to operate as a contractor while its registration is suspended is a violation of chapter 18.27 RCW and subject to infractions.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-060 What procedures ~~((should))~~ must be followed when surety bonds and/or insurance policies are canceled? (1) Insurance and bonding companies ~~((should))~~ must send cancellation notices to the department ~~((by certified or registered mail))~~.

(2) Cancellation notices must contain the following information ~~((in the order shown))~~:

(a) The name of the contractor exactly as it appears in the contractor's registration file;

(b) The contractor's registration number;

(c) The contractor's business address;

(d) The names of the owners, partners, or officers of the contractor;

(e) The bond or insurance policy number; and

(f) The effective date of the bond or insurance policy.

(3) The cancellation of a surety bond or insurance policy shall be considered effective ~~((thirty days))~~ immediately after the department receives a cancellation notice unless a later specific date is provided.

NEW SECTION

WAC 296-200A-065 What procedures must be followed when surety bonds and/or other securities approved by the department become impaired? (1) Once the department has been notified that the surety bond or other securities approved by the department has been impaired by a final judgment or reduced by payment to an amount less than is required by WAC 296-200A-030, the contractor's registration will automatically be suspended and the department will send a letter to the contractor by certified mail.

(2) Once the unsatisfied final judgment has been satisfied, the contractor may reapply according to the requirements of this chapter.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-070 When will the department (~~refund~~) release a security deposit? (1) The department will release a security deposit (~~one~~) two years after the contractor's last registration has expired **unless** there is an unsatisfied final (~~court~~) judgment or on-going claim against the contractor.

(2) The department will release a security deposit in less than (~~one~~) two years after the contractor's last registration has expired if the contractor provides a surety bond covering **both the previous and current registration periods.**

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-200A-080 How is a suit filed against a contractor? (1) A civil suit against a contractor must be filed in the superior court of the county in which the work was done or of any county in which jurisdiction of the contractor may be had. Unless the suit is filed in a superior court, the department will not be able to direct payment on an unsatisfied final judgment against a secured contractor.

(2) Notice that a suit has been filed (a summons and complaint) against a contractor, the contractor's bond, and/or the contractor's deposit must be exclusively delivered to the department by ~~((any delivery requiring notice of receipt))~~ registered or certified mail to: P.O. Box 44450, Olympia, Washington 98504-4450 or by any delivery requiring notice of receipt to: 7273 Linderson Way S.W., Tumwater, WA 98501. The notice must be addressed to the department and must include three copies of the summons and complaint filed against the contractor, the contractor's bond and/or the contractor's deposit. The person filing the suit must pay a twenty-dollar service fee to the department. ~~((See RCW 18.27.040(3).))~~

(3) The summons and complaint against a contractor ~~((should))~~ must include the following information:

(a) The name of the contractor exactly as it appears in the contractor's registration file;

(b) The contractor's business address;

(c) The names of the owners, partners or officers of the contractor if known; and

(d) The contractor's registration number.

(4) If the suit joins a bonding company, the summons and complaint should also include:

(a) The name of the bonding company that issued the contractor's bond;

(b) The bond number; and

(c) The effective date of the bond.

(5) If the suit is against a contractor using an assigned account in lieu of a bond, the complaint must also include:

(a) The name of the institution where the assigned account is held;

(b) The account number; and

(c) The date the assigned account was opened.

(6) Service is not considered complete until the department receives the documents in Tumwater with the twenty-dollar fee and three copies of the summons and complaint.

~~((+6))~~ (7) Within two days of receiving a summons and complaint, the department must transmit a copy of the summons and complaint to the registrant at the address listed on the registrant's application or at their last known address provided to the department and to the registrant's surety.

~~((+7))~~ (8) The department will return a summons and complaint without it being served, if the department cannot readily identify either the contractor or bonding company being sued, if the action did not arise under chapter 18.27 RCW, or if the fee and three copies of the summons and complaint are not received.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-090 How are judgments against contractors paid? (1) The department can only ~~((pay))~~ release or order release of payment for a superior court final judgment. ~~((It))~~ The department cannot ~~((pay))~~ release or order the release of payment to a district court or to satisfy other types of judgments.

(2) Payment of a final judgment by bond. If a contractor is bonded, the department can neither pay a final court judgment against a contractor nor force the contractor or its bonding company to pay. Only the claimant can pursue payment from the contractor or its bonding company.

(3) Payment of a final judgment by assignment of account.

(a) If a contractor's security is held by the department ~~((can))~~ it must be used to pay a superior court final judgment against a secured contractor.

~~((3))~~ The department must pay a superior court final judgment against a secured contractor if the claimant supplies the department with ~~((three))~~ one certified ~~((copies))~~ copy of the unpaid final court judgment. The ~~((three))~~ certified ~~((copies))~~ copy must be delivered by registered or certified mail within one year of the date the final judgment was officially entered into the court record.

~~((4))~~ (b) Assignment of account payments under subsection (2) of this section will be paid out in the order the final judgment is received by the department.

(c) For the department to pay a superior court final judgment, the claimant must include the following information with the ~~((copies))~~ copy of the judgment:

~~((a))~~ (i) The name of the contractor exactly as it appears on the contractor's registration file;

~~((b))~~ (ii) The contractor's business address;

~~((c))~~ (iii) The names of the owners, partners, or officers of the contractor;

~~((d))~~ (iv) The contractor's registration number; and

~~((e))~~ (v) The exact amount of the judgment, including court costs, attorneys' fees and interest.

If the department does not receive enough information to pay the judgment, it ~~((must))~~ will inform the claimant.

~~((5))~~ If a contractor is bonded, the department can neither pay a final court judgment against a contractor nor force the contractor or its bonding company to pay. Only the claimant can

~~pursue payment from the contractor or its bonding company.))~~ The department shall have no liability for payment in excess of the amount of the secured account.

(4) Payment of a final judgment by the contractor. The contractor may pay a superior court final judgment in lieu of the department releasing or ordering the release of a bond or the assignment of account funds to satisfy the final judgment. The contractor must provide the department with a "full satisfaction of judgment" from the superior court that the final judgment has been satisfied.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-111 How does a city, town, or county verify a contractor's registration? (1) A city, town, or county may verify((÷

(1)) an original contractor registration by receiving and duplicating a current contractor registration card, by checking the department's contractor registration ((data base)) Internet website, checking the computer disk (CD) circulated by the department, or by calling the department to confirm that the contractor is registered.

(2) ((A nonoriginal contractor registration by either accepting a)) The contractor's registration is valid if the contractor provides a notarized copy of the original contractor registration card ((if that copy has been attested to by the person who applied for that original card)) or ((by accepting)) a facsimile verification from the department.

Note: Although the contractor registration card states that the contractor has an active status, the contractor may have since been suspended.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-112 Who is liable when a city, town, or county fails to verify a contractor's registration? The city, county, or town that issues a building permit without verifying the contractor's registration may be liable for a maximum penalty amount of ((five)) ten thousand dollars. See RCW ((18.27.100 (7)(a))) 18.27.110(1).

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-300 What violations of chapter 18.27 RCW can result in the issuance of a notice of infraction? (1) Under RCW 18.27.100, the department can issue a notice of infraction to a contractor and assess a penalty up to ten thousand dollars for:

(a) Using an unregistered name while (~~(acting)~~) advertising as a contractor;

(b) Using an unregistered name and address in advertising, correspondence, signs, documents, etc.;

(c) Using a false or expired registration number in advertisements where a contractor's registration number is required;

(d) Using the bond and insurance requirements of chapter 18.27 RCW to advertise as a bonded and insured contractor;

(e) Using a false registration number to either solicit business or pose as a contractor;

(f) Failing to include the contractor's current registration number in all advertising that shows the contractor's name or address. This registration number may be omitted in an alphabetized listing of registered contractors stating only the name, address, and telephone number. See RCW 18.27.100(3).

(2) (~~(Under RCW 18.27.114,)~~) For violations of chapter 18.27 RCW, the department may issue penalties for violations and notices of infractions containing an order of correction to a person holding a registration, an applicant for registration, or a person acting in the capacity of a contractor, who is not otherwise exempted from chapter 18.27 RCW, that has violated chapter 18.27 RCW or this chapter. Such order shall require the violator to cease the unlawful advertising.

(3) The department (~~(can)~~) may issue a notice of infraction to a contractor for failing to provide a residential or commercial customer with a proper disclosure statement before beginning a repair, alterations or construction project. See RCW 18.27.114(1) for both the project dollar cost limits affecting this requirement and a sample disclosure statement.

This requirement does not apply to either contracts authorized under chapter 39.04 RCW or to contractors contracting with other contractors.

(~~(+3+)~~) (4) Under RCW 18.27.200, the department must issue a notice of infraction to a contractor for:

(a) Advertising, offering to work, submitting a bid, or

performing any (~~(contractor)~~) contracting work without being registered or when (~~(it's)~~) the contractor's registration is suspended or revoked; or

(b) Transferring a valid contractor registration to an unregistered contractor; or

(c) Allowing an unregistered contractor to work under a registration issued to another contractor.

Each day that a contractor works without being registered, works while the registration is suspended or revoked, or works under a registration issued to another contractor is a separate infraction. A cited contractor who continues to work while unregistered, or while their registration is suspended or revoked, or under a registration issued to another contractor is guilty of a separate misdemeanor for each day worked.

Each worksite at which a contractor works without being registered, works while the registration is suspended or revoked, or works under a registration issued to another contractor is a separate infraction. A cited contractor who continues to work while unregistered, or while their registration is suspended or revoked, or under a registration issued to another contractor is guilty of a separate misdemeanor for each worksite on which a violation occurs.

(~~((4))~~) (5) See WAC 296-200A-400 for the specific monetary penalties associated with each of the violations discussed in this section.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-305 How does the department notify registered contractors regarding any unregistered subcontractors they may employ?

(1) Unless a general contractor or its representative has been given written notification by the department that a subcontractor they have employed, who was registered when employed, has subsequently become unregistered, it is not (~~(illegal)~~) unlawful for the general contractor to employ that subcontractor. (See RCW 18.27.020(3).)

(2) To comply with RCW 18.27.020(3), the department, when (~~(appropriate)~~) feasible, will issue a written "notice of unregistered subcontractors" to a general contractor or its representative.

(3) A "notice of unregistered subcontractor" issued under this section must be personally served on the general contractor named in the notice by the department's compliance inspectors or must be served by certified mail directed to the general

contractor named in the notice.

(4) If the general contractor named in the notice is a firm or corporation, the notice may be personally served on any employee of the firm or corporation. If the notice is personally served upon an employee and the department is able to obtain the general contractor's address, the department must send a copy of the notice by certified mail to the general contractor within four days of service.

(5) A "notice of unregistered subcontractor" **is not** a notice of infraction.

(6) If, after receiving the "notice of unregistered subcontractor," the general contractor continues to employ the subcontractor in question, it will be liable for an infraction under RCW 18.27.200.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-310 What information must be included in a notice of infraction? When a contractor violates (~~RCW 18.27.100, 18.27.114 or 18.27.200~~) chapter 18.27 RCW, the department may issue a notice of infraction which (~~must~~) contains the following:

(1) Notification that an infraction has been committed and shall be final unless contested;

(2) Notification that an infraction is a noncriminal offense and is not punishable by imprisonment;

(3) The specific violation(s) leading to the issuance of the infraction;

(4) The amount of penalty owed if the infraction is established;

(5) Notification of a right to a hearing (chapter 34.05 RCW) if requested within twenty days of (~~receipt~~) service of the infraction;

(6) A reminder that the burden of proof in a hearing rests upon the state;

(7) Notification of a right to subpoena witnesses, including the inspector (~~that~~) who issued the infraction;

(8) A reminder that a contractor is legally required to sign a notice of infraction and, by doing so, promises to respond to it;

(9) A reminder that a refusal to sign a notice of infraction is a misdemeanor and may be punishable by fine or imprisonment; and

(10) A reminder that a failure to respond to a notice of

infraction is a misdemeanor and may be punishable by a fine or imprisonment.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-320 (~~((Who can be issued a notice of infraction?))~~) How can a notice of infraction be served? (1) A notice of infraction (~~((can be))~~) is served when the notice of infraction is issued personally to the contractor named in the notice by the compliance inspector issuing it or (~~((the notice can be delivered to the contractor by certified mail))~~) when the notice of infraction is sent by certified mail to the contractor.

(2) Any employee of a contractor can be (~~((issued))~~) served a notice of infraction at a job site. When the notice is signed by the employee, it is binding upon the contractor. To avoid confusion, the department must have the employee sign the "name of the contractor, by name of the employee." The signature will appear as:

Jane Doe Construction Co.
(by) Richard Roe, Employee.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-330 (~~((If a notice of infraction is served on an employee, how is the contractor notified?))~~) How are notices of infraction issued? (1) A notice of infraction may be issued personally to the contractor named in the notice by the compliance inspector issuing it or the notice may be sent to the contractor by certified mail.

(2) When the (~~((department issues))~~) department's compliance inspector serves a notice of infraction (~~((to))~~) upon a contractor's employee (~~((and it knows the contractor's name and address))~~), the department (~~((has))~~) shall within four days (~~((to deliver))~~) send a copy of the notice to the contractor by certified mail if the department is able to obtain the contractor's address. To ensure that the contractor receives this notice, the department (~~((must))~~) will mail a second copy of the infraction by first class mail.

~~((2))~~ (3) If the department does not know the contractor's name and address, it does not need to mail a copy of the infraction to the contractor, however, the notice remains in force.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-340 How does a contractor appeal a notice of infraction? The contractor must ~~((+)~~

~~(1) File two copies of an appeal notice, specifying the reasons for the appeal, at the office designated on the notice of infraction; and~~

~~(2))~~ file the notice of appeal ((notice)) with the department within twenty days ((of)) after the earlier of service of the infraction on-site or service of the infraction mailed to the contractor. These time frames apply to the issuance of the infraction for all violations of chapter 18.27 RCW.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-360 Who ((will)) may represent the contractor and the department at the appeal hearing? ~~((Contractors may either represent themselves or be represented by an attorney.))~~

(1) Contractors may be represented by themselves or be represented by:

(a) An attorney at law qualified to practice in the state of Washington; or

(b) An authorized representative(s) of the contractor.

(2) The department shall be represented by the office of attorney general.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-370 How is the appeal hearing conducted? The hearing **process** shall be conducted according to chapter 34.05 RCW, Administrative Procedure Act and chapter 10-08 WAC. All appeals of the ~~((hearing))~~ administrative law judge's decision shall be to the superior court according to chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-380 What evidence is admissible in an appeal hearing? ~~((All relevant evidence must be admitted in appeals hearings convened according to RCW 18.27.100, 18.27.114 and 18.27.200.))~~ The admission of evidence is ~~((further))~~ subject to chapter 34.05 RCW, Administrative Procedure Act.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-390 What does the department do with the appeal notices that they receive? ~~((The department must record and forward all appeal notices to the office of administrative hearings.))~~ (1) Appeal notices that are received timely are first reviewed by the department for purposes of reconsideration.

(2) Appeal notices that are not received timely will be returned to the appellant with appeal rights stated.

(3) Appeal notices that are received timely and are not reconsidered according to subsection (1) of this section are recorded and forwarded to the office of the attorney general then to the office of administrative hearings.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-400 What monetary penalties will be assessed for an infraction issued for violations of RCW 18.27.100, 18.27.110, 18.27.114 or 18.27.200? (1) Each day that a violation occurs will be a separate offense.

(2) Once a violation of chapter 18.27 RCW or this chapter becomes a final judgment, any additional violation within three years becomes a "second" or "additional" offense subject to an increased penalty as set forth in the tables that follow.

(3) Second or additional offenses subject to increased penalties also include individuals or entities.

(4) A person, firm, corporation, or other entity who violates a provision of chapter 18.27 RCW and this chapter is liable for a civil penalty based upon the following schedule.

(a)(i) Monetary penalties that may be assessed for a violation of RCW 18.27.100 (1), (2), (3), and (4) are:

<u>((RCW 18.27.100)) Monetary Penalties</u>	<u>Dollar Amount</u>
First Final Violation	\$ ((100.00)) * 250.00
Second Final Violation	\$ ((200.00)) 500.00
Third Final Violation	\$ ((400.00)) 1,000.00
Fourth Final Violation	\$ ((800.00)) 2,000.00
Fifth Final Violation	\$ ((1,600.00)) 4,000.00
Sixth Final Violation	\$ ((3,200.00)) 8,000.00
Each Additional Final Violation	\$ ((5,000.00)) 10,000.00

* Minimum penalty per violation. Once a violation of RCW 18.27.100 (1), (2), (3), and (4) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above (~~((table))~~).

(ii) Monetary penalties that may be assessed for a violation of RCW 18.27.100(5) are:

<u>Monetary Penalties</u>	<u>Dollar Amount</u>
<u>First Final Violation</u>	<u>\$ 1,000.00 *</u>
<u>Second Final Violation</u>	<u>\$ 2,000.00</u>
<u>Third Final Violation</u>	<u>\$ 4,000.00</u>
<u>Fourth Final Violation</u>	<u>\$ 8,000.00</u>
<u>Each Additional Final Violation</u>	<u>\$10,000.00</u>

* Minimum penalty per violation. Once a violation of RCW 18.27.100(5) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

(iii) Monetary penalties that may be assessed for a violation of RCW 18.27.100(6) are:

<u>Monetary Penalties</u>	<u>Dollar Amount</u>
<u>First Final Violation</u>	<u>\$ 1,000.00 *</u>
<u>Second Final Violation</u>	<u>\$ 2,000.00</u>
<u>Third Final Violation</u>	<u>\$ 4,000.00</u>
<u>Each Additional Final Violation</u>	<u>\$ 5,000.00</u>

* Minimum penalty per violation. Once a violation of RCW 18.27.100(6) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

(b) Monetary penalties that may be assessed for a violation of RCW 18.27.110 are:

<u>Monetary Penalties</u>	<u>Dollar Amount</u>
<u>First Final Violation</u>	<u>\$ 250.00 *</u>
<u>Second Final Violation</u>	<u>\$ 500.00</u>
<u>Third Final Violation</u>	<u>\$ 1,000.00</u>
<u>Fourth Final Violation</u>	<u>\$ 2,000.00</u>
<u>Fifth Final Violation</u>	<u>\$ 4,000.00</u>
<u>Sixth Final Violation</u>	<u>\$ 8,000.00</u>
<u>Each Additional Final Violation</u>	<u>\$10,000.00</u>

* Minimum penalty per violation. Once a violation of RCW 18.27.110 becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

~~((+2))~~ (c) Monetary penalties that may be assessed for a violation of RCW 18.27.114 are:

((RCW 18.27.114)) <u>Monetary Penalties</u>	<u>Dollar Amount</u>
<u>First Final Violation</u>	<u>\$ ((200.00)) *</u> <u>500.00</u>
<u>Second Final Violation</u>	<u>\$ ((400.00))</u> <u>1,000.00</u>
<u>Third Final Violation</u>	<u>\$ ((800.00))</u> <u>2,000.00</u>
<u>Fourth Final Violation</u>	<u>\$ ((1,600.00))</u> <u>4,000.00</u>
<u>((Fifth Final Violation))</u>	<u>\$3,200.00</u>
<u>Each Additional Final Violation</u>	<u>\$5,000.00</u>

* Minimum penalty per violation. Once a violation of RCW 18.27.114 becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above ~~((table))~~.

~~((+3))~~ (d) Monetary penalties that may be assessed for a violation of RCW 18.27.200 according to RCW 18.27.340 (1) and (3) are:

~~((+a))~~ (i)

((RCW 18.27.340(1))) <u>Monetary Penalties</u>	<u>Dollar Amount</u>
<u>First Final Violation</u>	<u>\$ ((200.00)) *</u> <u>500.00</u>

Second Final Violation	\$ ((400.00)) 1,000.00
Third Final Violation	\$ ((800.00)) 2,000.00
Fourth Final Violation	\$ ((1,600.00)) 4,000.00
((Fifth Final Violation	\$3,200.00))
Each Additional Final Violation	\$ 5,000.00

* Minimum penalty per violation. Once a violation of RCW 18.27.340(1) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above ~~((table))~~.

~~((b))~~ (ii)

RCW 18.27.340(3) Monetary Penalties	Dollar Amount
First Final Violation	\$1,000.00 *
Second Final Violation	\$2,000.00
Third Final Violation	\$4,000.00
Each Additional Final Violation	\$5,000.00

* Minimum penalty per violation. Once a violation of RCW 18.27.340(3) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the above table. However, if the unregistered contractor becomes registered within ten days of receiving the notice of infraction and the notice is the contractor's first offense, the director may reduce the penalty. In no case can the director reduce the penalty below five hundred dollars.

~~((c))~~ (4) For violations of RCW 18.27.200, the director may waive a penalty collection from a contractor in exchange for a payment of restitution to a damaged consumer in an amount at least equal to the ~~((amount of the))~~ assessed penalty. Prior to the infraction becoming final, the contractor must provide to the department a notarized release from the damaged consumer stating that he or she paid the damaged consumer in an amount at least equal to the assessed penalty.

(5)(a) The department shall deny an application for registration if:

(i) The applicant has been previously performing work subject to this chapter as a sole proprietor, partnership, corporation, or other entity and the department has notice that the applicant has an unsatisfied final judgment against him or her in an action based on this chapter or the applicant owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment;

(ii) The applicant was a principal or officer of a partnership, corporation, or other entity that either has an unsatisfied final judgment against it in an action that was incurred for work performed subject to this chapter or owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; or

(iii) The applicant does not have a valid unified business identifier number, if required by the department of revenue.

(b) The department shall suspend an active registration if the department has notice that the registrant is a sole

proprietor or a principal or officer of a registered contractor that has an unsatisfied final judgment against it for work within the scope of this chapter.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-405 When must a contractor pay assessed monetary penalties? (1) If a contractor named in a notice of infraction does not choose to appeal the notice, then the contractor must pay the department the amount of the penalty prescribed for the infraction. (~~(Payment must be by check or money order.)~~)

(2) After an administrative law judge decides that an infraction has been committed, a contractor who does not appeal the decision to a superior court, has thirty days to pay any outstanding monetary penalties. Failure to do so is a misdemeanor and (~~shall~~) may be prosecuted in the county where the infraction occurred.

(3) A contractor who has exhausted all appeal opportunities and fails to pay an assessed monetary penalty within thirty days after exhausting those opportunities shall be guilty of a misdemeanor and may be prosecuted in the county where the infraction occurred.

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-200A-900 What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration? (~~((1) For the purposes of this chapter:~~

~~(a) A contractor's registration is **renewed** before or after it expires.~~

~~(b) A contractor's registration is **reinstated** after the registration.~~

~~(i) Has been suspended because the contractor's insurance has expired or been canceled; or~~

~~(ii) Has been suspended because the contractor's bond or assignment of account has been canceled or impaired.~~

~~(c) A contractor **reregisters** when his or her business structure changes.~~

~~(2))~~ The department charges the following fees:

~~((a) \$100.00))~~ (1) \$103.20 for each issuance, renewal or reregistration of a certificate of registration for contractors. This registration is valid for two years from date of issuance, renewal or reregistration or until it is suspended or revoked.

~~((b) \$47.40))~~ (2) \$48.90 for the reinstatement of a certificate of registration.

~~((c) \$11.30))~~ (3) \$11.60 for providing a duplicate certificate of registration.

~~((d) \$22.70))~~ (4) \$23.40 for each requested certified letter prepared by the department.

~~((e))~~ (5) \$2.00 per copy for documents copied from a contractor's file. The maximum copy charge for copies from one contractor's file will be ~~((f) \$26.40))~~ \$27.20.

~~((f))~~ (6) \$20.00 is required to cover the costs for the service of process in an action against ~~(the)~~ a contractor, the contractor's bond, or the deposit under RCW 18.27.040.

(7) \$25.00 is required to cover the costs for the service of processing refunds.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-200A-500	Is the department required to monitor unregistered contractors who become registered?
WAC 296-200A-510	Is the department required to report contractor compliance activities to the legislature?